

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH
CENTRAL DIVISION

SMASH TECHNOLOGY, LLC, a Nevada
limited liability company; and MICHAEL
ALEXANDER, an individual,

Plaintiffs,

vs.

SMASH SOLUTIONS, LLC, a Delaware
limited liability company; JERRY “J.J.”
ULRICH, an individual; SMASH
INNOVATIONS, LLC, a Wyoming limited
liability company; and FERACODE, LLC, a
Utah limited liability company,

Defendants.

ORDER ADOPTING REPORT &
RECOMMENDATION

Case No. 2:19-cv-105-TC-JCB

Defendants filed motions for summary judgment and for sanctions, and the court referred those motions to United States Magistrate Judge Jared Bennett under 28 U.S.C. § 636(b)(1)(B) and Federal Rule of Civil Procedure 59(b)(1). On May 7, 2021, Judge Bennett issued a Report and Recommendation (R&R) (ECF No. 108), and the parties had fourteen days to file objections to the R&R. No party filed an objection.

As required by Rule 59(b)(3), the court must apply a de novo standard of review to determine whether the recommendation is correct. Now, having considered the R&R and Defendants’ motions, the court adopts the Report and Recommendation and **ORDERS** as follows:

1. The Motion for Summary Judgment and Motion for Sanctions filed by the Smash Solutions Defendants (Smash Solutions LLC, Jerry Ulrich, and Smash Innovations

LLC) (ECF No. 101) is GRANTED IN PART AND DENIED IN PART.

Specifically, the court orders that:

- a. Smash Solutions Defendants' request for sanctions under Federal Rule of Civil Procedure 37(b)(2)(A) is granted.
 - b. Smash Solutions Defendants' request for dismissal with prejudice of Plaintiffs' claims against them (Claims One through Twelve of the Amended Complaint (ECF No. 50)) is granted.
 - c. Smash Solutions' request for a declaratory judgment (set forth in Smash Solutions' First Cause of Action in its Amended Counterclaim (ECF No. 59)) is denied.
 - d. Smash Solutions' Second Cause of Action in its Amended Counterclaim ("Injunctive Relief") is dismissed.
2. Plaintiffs' Amended Complaint (ECF No. 50) is DISMISSED WITH PREJUDICE.
 3. Defendant Feracode, LLC's Motion for Summary Judgment and for Sanctions (ECF No. 103) is GRANTED.
 4. Defendant Smash Solutions, LLC's remaining counterclaims (the Third, Fourth, Fifth, and Sixth Causes of Action in ECF No. 59) and Defendant Jerry Ulrich's counterclaims (ECF No. 60) are not affected by this order and continue to be asserted against Plaintiffs.

DATED this 15th day of July, 2021.

BY THE COURT:

A handwritten signature in black ink that reads "Tena Campbell". The signature is written in a cursive, flowing style.

TENA CAMPBELL
U.S. District Court Judge